

Application Serial No.: 10/765,849
Reply to Office Action dated August 5, 2005

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-3, 6, 7, 9-11, 16, and 17 are presently active in this case, Claims 1, 2, and 6 having been amended and Claims 4, 5, and 12-15 having been canceled without prejudice or disclaimer by way of the present Amendment. The Applicants respectfully request the entry and consideration of the amendments set forth herein.

In the outstanding Official Action, Claims 1-7 and 9-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kuenstler et al. (U.S. Patent No. 6,594,990) in view of Gomulka (U.S. Patent No. 6,865,883). Claims 16 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kuenstler et al. in view of Gomulka and further in view of Tashiro et al. (U.S. Patent No. 6,622,480). For the reasons discussed below, the Applicants request the withdrawal of the obviousness rejections.

The basic requirements for establishing a *prima facie* case of obviousness as set forth in MPEP 2143 include (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the reference (or references when combined) must teach or suggest all of the claim limitations. The Applicants submit that a *prima facie* case of obviousness has not been established in the present case because the cited references, either when taken singularly or in combination, do not teach or suggest all of the claim limitations.

Claim 1 of the present application has been amended to recite the subject matter of Claim 4, namely, wherein, upon activation of the retarder, with an accelerator pedal retaining

its on-state, in light-load engine operation areas for forcible regeneration of the particulate filter, and when a clutch is off, an intake flow rate is decreased and the amount of fuel injected is increased so as to compensate reduction of the torque due to such decreased intake flow rate. Claim 6 of the present application has been amended to recite the subject matter of Claims 12 and 13, namely, further comprising decreasing an intake flow rate of air into the engine when the retarder is activated based on an operation state of an engine clutch, wherein decreasing comprises decreasing when the operation state of the engine clutch is off.

The Applicants submit that the cited references, either when taken singularly or in combination, fail to disclose a method in which when a clutch is off, an intake flow rate is decreased and the amount of fuel injected is increased so as to compensate reduction of the torque due to such decreased intake flow rate, in the manner recited in the independent claims. In fact, neither of the cited references even mentions the clutch, or clutch operation and its effect on a regeneration system.

The Kuenstler et al. reference describes restricting the fresh air supply as one of the ways to raise the temperature of the exhaust gas. But, the Kuenstler et al. reference does not describe the relevancy to the clutch operation. Thus, the Kuenstler et al. reference does not provide any teaching that aims at a countermeasure against a case where the engine load cannot be increased due to the operational interruption between the engine and retarder when the clutch is off.

In the present invention, decreasing the intake flow rate is employed not merely as one of the ways to raise the temperature of the exhaust gas. The present invention provides a method that allows for raising the exhaust gas temperature by decreasing the intake flow rate without relying on the retarder when the clutch is off so as to avoid lowering of the exhaust

gas temperature that can happen whenever the clutch is off during forcible regeneration of the particulate filter since the retarder is not reliable for increasing the engine load in that situation.

Accordingly, the Kuenstler et al. reference does not disclose or even suggest a method comprising, among other features, wherein, upon activation of the retarder, with an accelerator pedal retaining its on-state, in light-load engine operation areas for forcible regeneration of the particulate filter, and when a clutch is off, an intake flow rate is decreased and the amount of fuel injected is increased so as to compensate reduction of the torque due to such decreased intake flow rate, as recited in Claim 1, or a method comprising, among other features, decreasing an intake flow rate of air into the engine when the retarder is activated based on an operation state of an engine clutch, wherein decreasing comprises decreasing when the operation state of the engine clutch is off, as recited in Claim 6.

The Gomulka reference fails to supplement the deficiencies noted above in the teaching of the Kuenstler et al. reference, with respect to the limitations recited in Claims 1 and 6. In fact, the Gomulka reference never mentions the clutch, or clutch operation and its effect on regeneration.

Since the Kuenstler et al. reference and the Gomulka reference, either when taken singularly or in combination, do not disclose all of the limitations recited in Claims 1 and 6 of the present application, the Applicants submit that a *prima facie* case of obviousness has not been established with respect to Claims 1 and 6. Accordingly, the Applicants respectfully request the withdrawal of the obviousness rejections of Claims 1 and 6.

The dependent claims are considered allowable for the reasons advanced for the independent claims from which they depend. These claims are further considered allowable

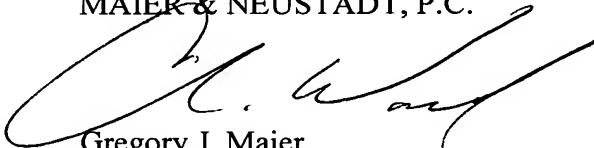
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as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of their respective independent claim.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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